

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of a Commission Investigation
into Qwest's Compliance with Section 272 of
the Telecommunications Act of 1996's
Separate Affiliate Requirement

PUC Docket No. P-421/CI-01-1372
OAH Docket No. 7-2500-14487-2

ORDER ON MOTION TO EXCLUDE DESIGNATION OF TRANSCRIPTS

This matter is before Administrative Law Judge Richard C. Luis on a motion made by the Department of Commerce to exclude designated portions of transcripts from the record in the Separate Affiliate docket (1372). The procedure to be followed for the inclusion of portions of transcripts into the record was set out in the hearing on this matter on January 8, 2002.

1. Qwest and ATT filed designations of transcripts from 271 Application matters from other jurisdictions to include that testimony as part of the Separate Affiliate docket. Those transcripts are included in the record as Qwest Exhibits 25, 26, 27A and 27B. Qwest has indicated that the transcripts will be useful as background information. The Department of Commerce moved to exclude portions of the designated transcripts. The grounds advanced by the Department are that the designated testimony is repetitive, introduces new evidence into this docket, includes factual testimony by counsel for the parties, makes reference to exhibits not in this record, and generally is not relevant.

2. The Administrative Law Judge has reviewed the designated portions of the transcripts objected to by the Department. The material is similar to the testimony provided in the hearing in this matter. The areas covered are not significantly new or different from the issues discussed at the hearing. The references to exhibits not present in this docket do not make the testimony difficult to understand or apply in this proceeding. The portions of the transcripts containing "factual" statements by counsel aid in understanding the context of the answers provided by the witnesses testifying. The witnesses were subject to vigorous cross-examination that parallels the Department's own questioning in the hearing held in this docket. The ALJ concludes that the Department's concerns regarding the designated testimony do not support excluding it from the record in this docket. It is reasoned that the issues the Department

may have explored if it was party to the other proceedings were explored adequately in the proffered testimony.

For the foregoing reasons, IT IS ORDERED that:

The Department's motion to exclude portions of the designated transcripts is DENIED.

Dated: January 24, 2002

/s/ Richard C. Luis
RICHARD C. LUIS
Administrative Law Judge